

SENATE BILL 2858
By Herron

AN ACT to amend Tennessee Code Annotated, Title 6, Chapter 54, relative to municipal police power.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 6, Chapter 54, Part 1, is amended by adding the following language as a new section:

§ 6-54-132.

(a) As used in this section,

(1) The language "any provision of law to the contrary" includes, but is not limited to, any conflicting provision of general statute, local law, private act, charter, municipal ordinance or law; and

(2) "Municipality" means any city, town, municipality, metropolitan government or other incorporated area.

(b) Notwithstanding any provision of law to the contrary, if the amount of revenue produced by fines and costs arising from traffic citations issued by a municipality exceeds thirty percent (30%) of the municipality's total expenditures, less capital expenditures and debt service, for the preceding fiscal year, then it shall be presumed that the municipality is abusing its police power.

(c) Notwithstanding any provision of law to the contrary, if more than fifty percent (50%) of all traffic citations issued by a municipality during a fiscal year are written for speed limit violations that are ten miles per hour (10 m.p.h.) or less than the posted limit, then it shall be presumed that the municipality is abusing its police power.

(d) Notwithstanding any provision of law to the contrary, upon request of the district attorney general of the judicial district in which a municipality is

located, the Tennessee bureau of investigation shall investigate and determine whether the municipality is abusing its police power. The investigation shall require the affected municipality to submit a certified record of all fines, costs, citations, municipal expenditures, percentage of citations that are written for ten miles per hour (10 m.p.h.) or less than the posted speed, and other relevant information. The municipality shall submit all requested records within thirty (30) days, unless given an extension by the bureau, and shall fully cooperate with all other aspects of the investigation. A municipal official or employee who intentionally refuses or fails to fully cooperate with the investigation commits a Class A misdemeanor.

(e) Notwithstanding any provision of law to the contrary, upon completing the investigation, the bureau shall forward its findings and all related information to the district attorney general. If the district attorney finds that the municipality has abused its police power, then either or both of the following sanctions may be imposed by the chancery court, upon petition of the district attorney general:

(1) For a fixed period, the municipality may be ordered to cease patrolling any or all affected highways and roadways; or

(2) For a fixed period, the municipality may be ordered to pay a fixed percentage of future fines and costs, arising from traffic citations, over to the local education agency to be used solely for the maintenance and operation of public schools.

A municipal official or employee who intentionally violates the terms of an ordered sanction commits contempt of court.

SECTION 2. This act shall take effect July 1, 2004, the public welfare requiring it.